



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 9, 1995

Mr. Brendan Hall
Attorney at Law
P.O. Box 2725
Harlingen, Texas 78550

OR95-260

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31352.

The City of Los Fresnos, (the "city"), received a request for a copy of a police report prepared by the police department regarding an incident which occurred on December 5, 1994. You contend that a portion of that report is excepted from disclosure by section 552.108 of the Government Code as an internal record or notation of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution. You inform us that an investigation related to this portion of the police report is ongoing. You have submitted a copy of the portion of the police report which you contend is excepted from disclosure for our review.

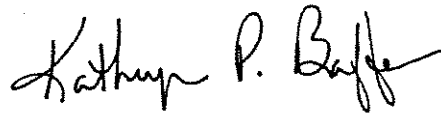
Section 552.108 excepts from required public disclosure all information related to cases under active investigation, except certain basic information ordinarily appearing on the first page of an offense report and in other records of law enforcement. As a general rule, information which may be withheld is evidentiary information including: a) information identifying witnesses; b) the summary of a confession; c) an investigator's view regarding the guilt of a suspect or the credibility of witnesses; d) statements made by informants; and e) records of property confiscated at the scene of the crime. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). An officer's narrative version of an incident is not necessarily excepted by 552.108. *See* Open Records Decision No. 354 (1982).

Section 552.108 also provides that an internal record of a law enforcement agency that deals with the detection, investigation, or prosecution of crime is excepted from disclosure. This section applies to information held by a law enforcement agency if its release "will unduly interfere with law enforcement and crime prevention." Open Records Decision No. 531 (1989) at 2 (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). When claiming this reason for exception, a governmental body must demonstrate how release of the information would unduly interfere with law enforcement and crime prevention unless the records supply this explanation on their face. See Open Records Decision No. 508 (1988) at 4.

The portion of the report you seek to withhold is a narrative statement made by a witness who in this case is also a police officer. You state that an investigation is ongoing and that if the information were released it would unduly interfere with law enforcement. After reviewing the portion of the police report you seek to withhold, we conclude that it is excepted under section 552.108. The city may withhold this record from the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/KHG/rho

Ref.: ID# 31352

Enclosures: Submitted documents

cc: Mr. Adolfo Cordova, Jr.
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(w/o enclosures)